

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
NORTHERN DIVISION

JOSEPH AMBROSE,

Petitioner,

Case. No 06-13361

Honorable Thomas L. Ludington

v.

RAYMOND BOOKER,

Respondent.

ORDER DENYING PETITIONER'S MOTIONS FOR BOND

This matter is before the Court upon Petitioner's motions for bond pending appeal. Because Respondent's appeal has run its course, and this Court's conditional grant of a Writ of Habeas Corpus was reversed, Petitioner's motions will be denied.

Defendant Ambrose Booker was convicted in 2001 of two counts of armed robbery, one count of carjacking, and one count of felony-firearm possession. Subsequent to Defendant's trial in Kent County, it was discovered the jury selection process was flawed. The computer program used to select potential jurors from the jury pool contained a glitch, and instead of selecting jurors from the full 453,981 registered residents in the county, only 118,169 were considered. After the problem was discovered, Defendant filed a habeas petition in this Court. He alleged his Sixth Amendment right to a jury drawn from a fair cross-section of the community had been violated. This Court agreed, and the habeas petition was conditionally granted. The issue was then considered on appeal by the Sixth Circuit.

The Sixth Circuit agreed that Defendant's right to a jury drawn from a fair cross-section of the community had been violated. To this end, Defendant had established cause for his failure to object to the jury venire at trial. However, the court noted that cause was not enough. Citing

Supreme Court cases *Francis v. Henderson*, 425 U.S. 536 (1976), and *Davis v. United States*, 411 U.S. 233 (1973), the court held that Defendant must also show “actual prejudice” before his conviction can be overturned. The Sixth Circuit then reversed this Court’s decision to grant Defendant’s habeas petition, and remanded the case for further proceedings.

Currently before this Court are Defendant’s motion for release on bond pending appeal, and Defendant’s renewed motion for release on bond pending appeal. Because the Sixth Circuit has reversed this Court’s order conditionally granting Defendant’s habeas petition, Defendant’s motions will be denied without prejudice until the Court of Appeals’ order of remand is attended to.

Accordingly, it is **ORDERED** that Petitioner’s Motion for Bond Pending Appeal, ECF No. 60, is **DENIED**.

It is further **ORDERED** that Petitioner’s Renewed Motion for Bond Pending Appeal, ECF No. 73, is **DENIED**.

It is further **ORDERED** that Respondent’s Motion to Seal, ECF No. 65, submitted in opposition to Petitioner’s motions for bond, is **DENIED**.

It is further **ORDERED** that the motion hearing set for **October 9, 2012 at 3:00 p.m.** is converted to a telephonic status conference for the same date and time.

It is further **ORDERED** that counsel for Petitioner is **DIRECTED** to initiate contact with all parties of record and this Court.

Dated: October 4, 2012

s/Thomas L. Ludington
THOMAS L. LUDINGTON
United States District Judge

PROOF OF SERVICE

The undersigned certifies that a copy of the foregoing order was served upon each attorney or party of record herein by electronic means or first class U.S. mail on October 4, 2012.

s/Tracy A. Jacobs
TRACY A. JACOBS